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SALES OF NEW AND USED VEHICLES BY MOTOR VEHICLE DEALERS

The information contained herein responds to numerous inquiries by motor vehicle dealers concerning their sales of new and used vehicles. Motor vehicle dealers have asked how certain BOE and Department of Motor Vehicle (DMV) forms regarding the sale, registration, and transport of vehicles may affect the application of tax to their sales. In general, a dealer's retail sale of a motor vehicle is subject to sales tax, which is paid to the Board of Equalization (BOE).

The following are the most frequently asked questions and responses to them:

Why is it important for a motor vehicle dealer selling used vehicles to retain all copies of voided DMV Report of Sale—Used Vehicle (REG 51) forms?

California motor vehicle dealers licensed by the DMV must report the retail sale of all used vehicles on the *Report of Sale—Used Vehicle* (REG 51) form issued by the DMV. During a BOE audit of a dealer, the BOE auditor examining the dealer's records may conclude that missing report of sale (ROS) forms were used for unreported vehicle sales. For this reason, missing ROS documents may result in tax liability. Never destroy or discard any ROS documents. Retaining blank, voided, or unused ROS forms help to show that all sales transactions are properly accounted for.

When a vehicle sale is not completed and the buyer never takes delivery of the vehicle (a transaction commonly called an "unwind"), the dealer should mark all copies of the completed ROS forms **"VOID."** Then on the DMV *Statement of Facts* (REG 256) form, the dealer should explain how the error was made and state that the vehicle did not leave the dealer's possession. Keep all copies of the voided REG 51 forms and the completed REG 256 forms at your primary business location so they are available upon request of a BOE auditor.

The requirements above also apply to voids and unwinds of new vehicles.

How long should motor vehicle dealers keep ROS forms?

Keep all ROS forms for at least four years, or for at least 10 years under the California Sales and Use Tax Amnesty Program. When dealers close their businesses, they must submit all ROS forms to the

DMV, including completed and voided copies for the prior four years as well as any blank or unused copies. These documents should be kept safely and accounted for properly. If you participated, or should have participated, in the 2005 California Sales and Use Tax Amnesty Program, these records should be kept for at least 10 years.

To support a claimed tax exemption, what DMV forms must a motor vehicle dealer use to report the sale of a new or used vehicle purchased for registration in another state?

When a new vehicle is sold for registration in another state, the dealer must complete the DMV *Application for Registration of New Vehicles* (REG 397) form and mark it, **“FOR REGISTRATION IN ANOTHER STATE.”** When a used vehicle is sold for registration in another state, the dealer must complete the DMV *Report of Sale---Used Vehicle* (REG 51) form and mark it, **“FOR REGISTRATION IN ANOTHER STATE.”** For sales of both new and used vehicles, the dealer must also complete a DMV *Statement of Facts* (REG 256) form explaining how the vehicle was moved to its out-of-state destination.

It is important to note if a dealer sells a vehicle that the purchaser (or the purchaser’s agent) picks up in California and drives to an out-of-state location for registration outside California, that sale generally does not qualify as an exempt sale.

Once all documents are completed, the dealer must send the appropriate copies of REG 397 or REG 51 and REG 256 to the DMV at:

DMV Incoming Mail MS A235
P.O. Box 944292
Sacramento, CA 94244-2920

To support a claimed tax exemption, what documents must a dealer obtain to demonstrate that a vehicle was delivered in Mexico?

Sales of vehicles that a dealer delivers into Mexico may qualify as a tax-exempt sale for export if the buyer does not first use the car in California. To support this exemption, the dealer must obtain a *Certificate of Delivery in Mexico* from the person who delivered the vehicle in Mexico. The format for this certificate is shown in BOE Publication #32, *Tax Tips for Sales to Purchasers in Mexico*. Remember to keep all documentation showing that the vehicle was in fact delivered directly into Mexico and not to a California destination prior to delivery into Mexico.

Related Publications and Information

BOE Publication #25 *Tax Tips for Auto Repair Garages and Service Stations*
BOE Publication #32 *Tax Tips for Sales to Purchasers from Mexico*
BOE Publication #34 *Tax Tips for Motor Vehicle Dealers*
BOE Publication #52 *Vehicles and Vessels: How to Request a Use Tax Clearance for DMV Registration*

You may obtain copies of publications and forms on the BOE website: www.boe.ca.gov. You may also request this information and receive answers to your questions by calling the BOE toll-free at (800) 400-7115.